

REMARKS

Claims 1 and 3-18 are pending in the application. Claim 2 is herein cancelled. Claims 1 and 3 have been amended to recite primate embryonic stem cells and a culturing time. Support for "primate" is found in the Specification at page 59, line 14-18. Support for the culturing time is found in the Specification at page 21, lines 6-13 and page 25, lines 12-23 and the Examples. Applicants respectfully submit that no new matter has been added by way of the present claim amendment.

Interview Summary

Applicants thank Examiner Sgagias and her Supervisor for extending Applicants' representatives the courtesy of an interview. During the interview, the written description rejection was discussed. The Examiner indicated that the above amendments to the claims would overcome the written description rejection but that the amendment would not be entered.

Rejections under 35 U.S.C. § 112, paragraph 1

In the Office Action of July 22, 2009, the Examiner rejected claims 1-18 under 35 U.S.C. § 112 as failing to comply with the written description requirement. Applicants have amended the claims to omit the language regarding the three tissue layers. Applicants submit that this amendment obviates the written description rejection and request that the rejection be withdrawn.

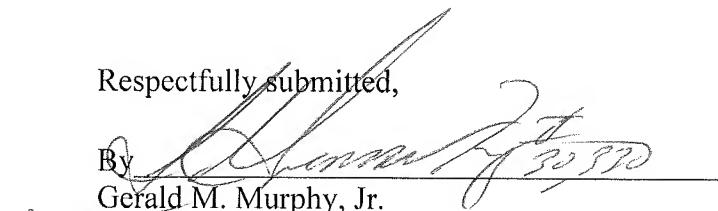
In view of the foregoing, Applicants believe the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mary M.H. Eliason, Reg. No. 58,303 at (858) 792-8855, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: October 22, 2009

Respectfully submitted,

By


Gerald M. Murphy, Jr.

Registration No.: 28,977

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant